

FILED

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PATRICK E. DUFFY, CLERK

By _____
DEPUTY CLERK, MISSOULA

IN THE UNITED STATES DISTRICT COURT

FOR THE DISTRICT OF MONTANA

HELENA DIVISION

JESSE HOPKINS,)	CV 11-38-H-DWM-RKS
)	
Plaintiff,)	
)	
vs.)	ORDER
)	
MIKE FERRITER, DR. SCOTT)	
PIRANIAN, MIKE MAHONEY, and)	
KATHY REDFERN,)	
)	
Defendants.)	
_____)	

United States Magistrate Judge Keith Strong issued a prescreening Order on August 31, 2011, giving Plaintiff Jesse Hopkins until September 30, 2011, to file an amended complaint. Plaintiff has failed to do so. Judge Strong entered Findings and Recommendation on November 15, 2011, and recommended dismissing Hopkins' Complaint with prejudice for failure to state a claim upon

which relief may be granted. Hopkins did not timely object to the Findings and Recommendation, and so has waived the right to de novo review of the record. 28 U.S.C. § 636(b)(1). This Court will review the Findings and Recommendation for clear error. McDonnell Douglas Corp. v. Commodore Bus. Mach., Inc., 656 F.2d 1309, 1313 (9th Cir. 1981). Clear error exists if the Court is left with a “definite and firm conviction that a mistake has been committed.” United States v. Syrax, 235 F.3d 422, 427 (9th Cir. 2000).

After a review of Judge Strong’s Findings and Recommendation, I find no clear error. Accordingly,

IT IS HEREBY ORDERED that Judge Strong’s Findings and Recommendation (dkt #7) are adopted in full. Hopkins’ Complaint (dkt #2) is DISMISSED WITH PREJUDICE for failure to state a claim upon which relief may be granted.

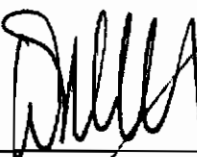
The Clerk of Court is directed to close this matter and enter judgment in favor of Defendants pursuant to Rule 58 of the Federal Rules of Civil Procedure.

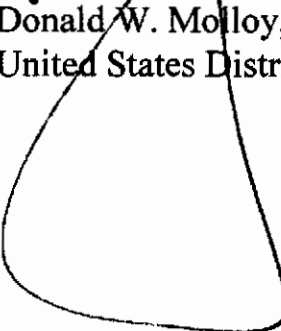
IT IS FURTHER ORDERED the Clerk of Court is directed to have the docket reflect that this dismissal counts as a strike pursuant to 28 U.S.C. § 1915(g) based upon Hopkins’ failure to state a claim.

The Clerk of Court is further directed to have the docket reflect that the

Court certifies pursuant to Fed. R. App. P. 24(a)(3)(A) that any appeal of this decision would not be taken in good faith.

Dated this 20th day of December, 2011.





Donald W. Molloy, District Judge
United States District Court